



Virginia
Regulatory
Town Hall

townhall.virginia.gov

Exempt Action Final Regulation Agency Background Document

Agency name	Department of Forensic Science
Virginia Administrative Code (VAC) citation	<u>6 VAC 20 -190</u>
Regulation title	Regulations for Breath Alcohol Testing
Action title	The amendments to the regulations reflect the agency's new status as a Department by changing (1) the citation for these regulations from 6 VAC 20-190-10 et seq. to 6 VAC 40-20-10 et seq. to reflect the new agency number assigned to the Department of Forensic Science by the Virginia Registrar of Regulations and (2) any reference in the regulations to the agency from the "Division" of Forensic Science to the "Department" of Forensic Science.
Final agency action date	February 22, 2006
Document preparation date	January 3, 2006

When a regulatory action is exempt from executive branch review pursuant to § 2.2-4002 or § 2.2-4006 of the Virginia Administrative Process Act (APA), the agency is encouraged to provide information to the public on the Regulatory Town Hall using this form.

Note: While posting this form on the Town Hall is optional, the agency must comply with requirements of the Virginia Register Act, the *Virginia Register Form, Style, and Procedure Manual*, and Executive Orders 21 (02) and 58 (99).

Summary

Please provide a brief summary of all regulatory changes, including the rationale behind such changes. Alert the reader to all substantive matters or changes. If applicable, generally describe the existing regulation.

The Code of Virginia directs the Department of Forensic Science to establish a training program, approve equipment, and establish methods to conduct chemical analyses of a person's breath, either to obtain a preliminary analyses of alcoholic content for the purposes of §§ 18.2-267, 29.1-738.1 and 46.2-341.25 or, pursuant to §§ 18.2-268.9., 29.1-738.2 and 46.2-341.26:9, to obtain an analysis that can be considered valid as evidence in a prosecution under §§ 18.2-266, 18.2-266.1, 29.1-738 or 46.2-341.24. These regulations describe the process for approval of breath test devices, general methods of conducting breath tests, training and licensing procedures for operators, required forms and records, and the use of preliminary breath test devices.

In accordance with changes to the Code of Virginia, effective July 1, 2005, the Division of Forensic Science, which had formerly existed as a Division within the Department of Criminal Justice Services, became the Department of Forensic Science. The amendments to the regulations reflect the agency's new status as a Department in two ways. First, the amendments change the citation for these regulations from 6 VAC 20-190-10 et seq. to 6 VAC 40-20-10 et seq. to reflect the new agency number assigned to the Department of Forensic Science by the Virginia Registrar of Regulations. Second, the amendments change any reference in the regulations to the agency from the "Division" of Forensic Science to the "Department" of Forensic Science.

Statement of final agency action

Please provide a statement of the final action taken by the agency including (1) the date the action was taken, (2) the name of the agency taking the action, and (3) the title of the regulation.

On November 30, 2005, the Forensic Science Board adopted amendments to the "Regulations for Breath Alcohol Testing."